



*Florida Department of Law Enforcement*



STATEMENT

OF

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REGARDING A HEARING ON

**The 287(g) Program:  
Ensuring the Integrity of America's Border Security System  
Through Federal-State Partnerships**

BEFORE THE

THE HOUSE COMMITTEE ON HOMELAND SECURITY  
SUBCOMMITTEE ON MANAGEMENT, INTEGRATION, AND OVERSIGHT

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210 CANNON HOUSE OFFICE BUILDING

Mr. Chairman and distinguished Members of the Committee. I would like to begin by thanking this Committee for the opportunity to represent the state and local officers throughout Florida, who are designated to serve in the first of its kind 287(g) Cross Designation Program. All of these men and women have served on Florida's Regional Domestic Security Task Forces, and are committed to a partnership with federal law enforcement to ensure the domestic security of the citizens and visitors in the State of Florida. These partnerships are vital in creating bonds that allow law enforcement at all levels to work together against future terrorist attacks targeting the State of Florida and our nation.

Please allow me to start with a history of the 287(g) Cross Designation Program in Florida. After the atrocities of September 11, 2001, the State of Florida quickly assessed its abilities to detect and respond to domestic security and terrorist events. Governor Jeb Bush directed Florida Department of Law Enforcement (FDLE) and Department of Emergency Management (DEM), to lead Florida's efforts in determining its preparedness. Within one month, over 1,000 agencies including Law Enforcement, Fire, Emergency Management, Health and the private sector were polled in this project. From these efforts, the State of Florida created seven Regional Domestic Security Task Forces (RSDTF's), generally coinciding with the geographic areas served by existing FDLE Regional Operations Centers. These task forces have served as the cornerstone of Florida's domestic security and anti-terrorism efforts since that time, and have achieved great success.

In November 2001, the Florida Legislature met in special session and codified the domestic security task force structure into statute. These task forces serve under the policy direction of a multi-disciplined oversight council, and at the regional level are co-chaired by a sitting Sheriff and the FDLE Special Agent in Charge serving that region. Their mission is to employ the coordinated resources of various local, state and federal agencies to prevent, preempt and disrupt any terrorist attack or other domestic security threats within the State of Florida; or, in the event of such an attack, to effectively respond to the incident to facilitate recovery and investigation. The law enforcement component of the Regional Domestic Security Task Force is coordinated by the FDLE. As stated, the RDSTF is comprised of law enforcement, fire/rescue, medical, emergency response and preparedness components. Law enforcement is the discipline responsible for coordinating with Federal authorities regarding enforcement efforts concerning immigration violations. It was quite apparent, based upon the nature of the 9/11 attacks and the limited Federal immigration resources in Florida at that time, that these RDSTF law enforcement components could become force multipliers to address immigration issues with a potential nexus to terrorism.

The current ICE/RDSTF initiative evolved from a previous FDLE request to allow state law enforcement personnel to have direct access to the Legacy Immigration and Naturalization Service (INS) record systems and databases. In December 2001, the INS Assistant District Director for Investigations (ADDI) and FDLE leadership met to discuss the concept of using the provisions of Section 287(g) and consensus was reached as to the need for such a program.

The initial proposal consisted of employing the time-proven, multi-agency law enforcement task force approach, combined with the delegation of authority provisions of Section 287(g) of the Immigration and Nationality Act (INA). The initiative would designate a cadre of RDSTF-

assigned state and local law enforcement officers who would be trained by INS in immigration law enforcement matters. INS enforcement authority would be delegated to those officers under Section 287(g) and they would work under the direct supervision of an INS Supervisor and the assigned RDSTF Special Agent Supervisor.

The vetted 287(g) initiative was presented to Governor Bush, who concurred and directed FDLE to immediately pursue implementation. Shortly thereafter, Governor Bush presented the concept to Legacy INS Commissioner Ziglar and Attorney General Ashcroft in Washington, both of whom agreed the initiative should go forward.

Legacy INS administrators began an in-service campaign to present the initiative proposal to the various levels of the Legacy INS command structure. These efforts, given the first-time and highly unique nature of the proposal, were often problematic. However, with the Legacy INS Commissioner's approval already a given, the initiative was accepted by the Legacy INS command at the Eastern Regional Office and Headquarters.

With these conceptual approvals, members of the Legacy INS Office of Investigations (Miami) began working closely with FDLE to produce a draft written proposal for submission to INS Headquarters. After several revisions, a formal initiative proposal was finalized and ultimately approved by INS, DOJ and FDLE. The initiative proposal led to the finalization of a Memorandum of Understanding (MOU) which, after additional revision, was signed by United States Attorney General Ashcroft, Governor Bush, Commissioner Ziglar and Commissioner Moore in June 2002. In December 2003, this Memorandum of Understanding was renewed and signed by Department of Homeland Security Under Secretary Hutchinson and Florida Governor Bush.

The Memorandum of Understanding (MOU) outlines a number of terms and conditions for this 287(g) authority. The foundation for these terms is that all investigative efforts must have a nexus to domestic security and counter terrorism. Other key terms included that all Regional Domestic Security Task Force members assigned to the 287(g) Program had to commit to serve a minimum of one year under this authority. All members were subject to a full background not only from the RSDTF, but also INS/ICE. They further had to attend and pass proficiency testing provided by INS/ICE.

Implementing the provisions of the MOU began during April 2002 when Legacy INS Investigations selected seven Acting Supervisory Special Agents (ASSA's) and posted them in the seven RDSTF locations. The assigned ASSA's immediately engaged in operational liaison and local training efforts with the RDSTF. They also began initiating cases and making arrests in conjunction with the RDSTF. This spirit of cooperation was crucial during the initial phases of the program.

Soon thereafter, the Immigration Officer Academy crafted a six-week training course featuring the delegation of authority curriculum. Legacy INS and FDLE, working with law enforcement agencies participating in the RDSTF, finalized the selection of 35 veteran law enforcement investigators as the initial cadre of delegated-authority officers.

On July 9, 2002 the first-ever Section 287(g) training course began. The course covered immigration and nationality law, immigration criminal laws, removal statutes, civil rights, cultural diversity, alien processing, INS structure and record systems and employed the same testing criteria and techniques as basic Immigration Officer Training. On August 15, 2002, the course graduated all 35 participants, who then returned to their assigned RDSTF locations and became operational.

During this formative period, the State of Florida, through the RSSTF's, expended considerable energy and time communicating the purpose of the program to various ethnic groups. This program received considerable publicity in Florida during its development in part because this was a new concept, but also due to Florida's highly diverse population and migrant farming communities. Some cultural groups expressed concerns related to any INS authority being delegated to state and local officers. The Office of the Governor, the RSSTF's and Legacy INS diligently worked to communicate exactly what Florida's intentions were with this program to the ethnic groups with concerns, including community and religious leaders representing Hispanics, Haitians and persons from countries in the Middle East. All participating agencies collaborated on, and later produced, an informative brochure that explained in simple terms, and multiple languages, the mission of the program. Additionally, we did not miss an opportunity to communicate our message via the print, radio and television media. I am proud to say on behalf of all the regions we have adhered to the spirit and letter of our MOU. Within this program there have been no examples where persons have been arrested or detained that were not directly related to a domestic security complaint or focused investigation. I cannot over emphasize the highly focused nature of the Florida initiative. In all cases, the ICE Team Leader to the RDSTF (formerly the INS ASSA), the FDLE Special Agent Supervisor and the local ICE Immigration Supervisor must agree on a decision to arrest or detain a person pursuant to the 287(g) authority. We respect individual rights and abide by all applicable state and federal law. We also mutually share and understand the concerns of our community and the participating agencies. Additionally, proactive criminal investigations involving the United States Attorney's Office receive further review to assure compliance with all applicable Federal laws and procedures. As of today, not one formal complaint (a procedure is provided for within the MOU) has been filed with FDLE related to this program.

The reorganization of a number of federal agencies including INS into the Department of Homeland Security presented some challenges to our 287(g) Program. Not only has the Department of Homeland Security undertaken the massive responsibility of deciding appropriate roles and relationships within its structure, the Florida Department of Law Enforcement itself in October 2003 received a new Executive Director, Commissioner Guy Tunnell. During the months between September and December 2003, no direct action could be taken by our Cross Designated agents, as the Memorandum of Understanding was under revision and had not yet been finalized. In the Tampa Region, we carried on by working with the ICE Special Agent in Charge and his colleagues. I am proud to say that our previous accomplishments and established relationships served us well during this transition, and we continue to reap the benefits of these focused and highly coordinated efforts.

Florida strongly supported an additional 287(g) Delegation of Authority Training Program, and in March of this year a second class was convened. During April, the ICE Academy graduated twenty-seven (27) additional Task Force Agents that were deployed back into the regions. Immediately following the graduation, senior leadership from FDLE and ICE met to discuss the future of the program. Each Region was directed to assess the current state of the program and develop a plan for continued operations. In Tampa Bay, regional ICE and FDLE leadership decided to continue to focus on areas that had provided value in the past. Proactive investigations concerning the impact of illegal immigrants on critical infrastructure, and diligent follow-up on complaints received concerning persons who appear to pose a domestic security threat, were and remain our regional priorities.

There are currently ten (10) Regional Domestic Security Task Force Agents assigned to the ICE/RDSTF 287(g) project in the Tampa Bay area. These Agents represent seven different city, county and state agencies, and have statewide investigative and arrest authority granted by FDLE for the purpose of conducting domestic security investigations. The Task Force Agents (TFA's) work on a variety of assignments, but their first priority is to work on investigations concerning foreign nationals that are suspected of being involved in domestic security related issues. Many of the investigations to date have concerned nationals or citizens of countries designated as sponsors of terrorism or countries in areas of geographic concern. Additional investigations targeting unauthorized persons working in critical infrastructure have also resulted in a number of arrests and deportations. To date over 100 persons have been arrested, and many more have been interviewed by trained officers who can more adequately determine if a person poses a threat based a number of variables, including knowledge gained by participating in the extensive ICE 287(g) training.

To date, the arrests cover a broad spectrum of activity. We have arrested single individuals involved in what appears to be surveillance activities of sensitive locations. We have also conducted extensive investigations that have resulted in illegal aliens being apprehended working in restricted or secured areas of airports, seaports and nuclear plants. As with all preventive measures, we will never know for sure just how many terrorist or other criminal operations we has disrupted or impacted; however we can state that our commitment to follow all leads from citizens, the private sector and other government agencies in a diligent and organized manner continues.

Operation "Open Water" is one example of how the 287(g) authority can be utilized in a multi-agency task force environment, and is representative of similar RDSTF operations in the State of Florida. Operation Open Water is a long-term investigation that was initiated based on a RDSTF effort to investigate instances of identity fraud and false statements used by subjects to obtain employment and access to restricted areas at the Port of Tampa. The investigation revealed the identities of subjects at the Port of Tampa who compromised or circumvented statutorily mandated port security measures by violating State of Florida or Federal laws. The investigation resulted in a number of indictments which lead to arrests, detentions and removals. The investigation was successful because it combined the efforts of a number of FDLE programs/initiatives and the training and expertise of the ICE 287(g) trained Agents and the ICE Lead Worker assigned to the RDSTF. In each case we also look for problems in the system, and

work with the appropriate authorities to close loop holes, strengthen procedures, or recommend regulatory and/or statutory changes.

The 287(g) authority granted to these specialized Agents has never been considered the single solution for any issue involving an immigrant suspect. Complete investigations surrounding these, and other persons of concern, are required to assure that law enforcement officers are following all leads to a logical conclusion. The 287(g) authority is one of many valuable tools in the legal “tool belt” afforded these Task Force Agents to impact suspects in domestic security cases. Participating agencies recognize this authority, coupled with appropriate training and oversight, add value to their organizations. Even today, this program acts as a force multiplier by allowing authorized local and state agents to screen incoming complaints and identify persons and leads worthy of follow-up investigation, without initially contacting the regional ICE office with every lead or complaint. Those leads or complaints that require further examination receive more attention at the appropriate levels.

Ironically, this training and experience has proven to be a benefit to the immigrant communities because the Agents are more readily able to clear a person that is suspected of suspicious activity by having access to the wealth of information contained in ICE databases. In those cases where an immigrant is cleared of suspicion, but still has immigration issues, the subject is afforded the same consideration as an illegal alien not encountered under those circumstances.

In closing, Florida strongly supports the continuation of the 287(g) Cross Designation Program. We believe this authority provides a strong force multiplier for our federal partners and our collective efforts to prevent another terrorist attack. We remain ready and willing to assist our federal partners in these efforts. By remaining committed to our use of the trained personnel in domestic security related investigative efforts, we are assuring that these highly skilled officers will be put to the best use—thereby better protecting Florida and the nation.

Again, thank you for this tremendous opportunity and I look forward to your questions.